

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-25 are pending in the application, with 1, 10, 13, 16, 21, and 25 being the independent claims. Claims 1-25 are sought to be amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Provisional Nonstatutory Double Patenting Rejection

The Examiner has provisionally rejected claims 1-25 under the judicially created doctrine of obviousness-type double patenting for allegedly being unpatentable over claims 1-3 and 9-37 of co-pending Application No. 10/815,251.

Pursuant to M.P.E.P. Section 804(I)(B), since co-pending Application No. 10/815,251 has not been allowed, the Examiner should maintain the double patenting rejection in this instant application as a ‘provisional’ double patenting rejection, which can be converted into a double patenting rejection when the co-pending Application No. 10/815,251 issues as a patent. Applicants will appropriately address the provisional double patenting rejection in the event it is converted to an actual double patenting rejection pursuant to M.P.E.P. Section 804(I)(B) after co-pending Application No. 10/815,251 issues as a patent.

Rejections under 35 U.S.C. § 101

Claims 1, 3-6, 21, and 23-24 were rejected under 35 U.S.C. § 101 because the Examiner alleges that the claims are directed to non-statutory subject matter. Applicants note the Examiner does not appear to actually have provided a reason for the rejection, merely stating “the language of the claim(s) raises a question whether the claims...,” thus Applicants cannot determine whether this is a provisional or actual rejection. However, for expeditious prosecution, Applicants have addressed the Examiner’s concerns below.

A claim complies with the statutory requirements of 35 U.S.C. § 101 if the claim does not fall within one of the judicial exceptions to patentability (Law of Nature, Natural Phenomenon, or Abstract Idea) or if the claim is a practical application of a 35 U.S.C. § 101 judicial exception. Applicants submit that the original and above recited claims, as a whole, are directed to a useful, concrete and tangible result. For example, claim 1 recites, among other things, “cryptographically associating the document retention policy with the electronic document.” Claim 21 recites similar language. Associating of a document retention policy with an electronic document is clearly a useful and tangible result and finds support within the Specification. For example, in paragraph [0070] of the Specification, a document that utilizes a specific key “in imposing document retention would no longer be **accessible**” after the key expires. Cryptographically associating document retention in this instance **prevents access** to the electronic document. The Examiner acknowledges in page 3 of the present Office Action, that “**prevention** or deactivation or activation or **access permission**” is considered a practical application that produces a useful, concrete, and tangible result.

Therefore, it follows that claim 1, as originally recited, conforms to the Examiner's description of a practical application. Finally, because the process substantially produces the same result again and again (i.e., preventing access to an electronic document), claim 1 produces a concrete result. Accordingly, claim 1 is directed to a practical application and is therefore statutory subject matter.

The Examiner does not specifically reject claims 3-6, thus Applicants assume that the above arguments overcoming claim 1 address claim 3-6. Applicants request the Examiner more specifically address claims 3-6 in the next Office Action if the allegations under 35 U.S.C. 101 are maintained. Given that claim 1 is directed to statutory subject matter, for at least the reasons provided above, claims 3-6 are also directed towards statutory subject matter. Accordingly, reconsideration and withdrawal of the rejection of claims 3-6 is respectfully requested.

The Examiner further rejects claims 23-24 as allegedly being directed towards non-statutory subject matter. Applicants respectfully traverse this rejection. These claims depend from claim 21 and include all features thereof. Given that claim 21 is directed to statutory subject matter, for the reasons given above with respect to claim 21, claims 23-24 are also directed towards statutory subject matter. Accordingly, reconsideration and withdrawal of the rejection of claims 23-24 is respectfully requested.

Rejection under 35 U.S.C. § 102

The Examiner has rejected claims 1-25 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Published Patent Application No. 2005/0071657 to Ryan (hereinafter, "Ryan"). For the reasons set forth below, Applicants respectfully traverse.

Claims 1-9

The Examiner argues that Ryan discloses (emphasis added) "assigning a document retention policy to the electronic document, the document retention policy being based on a recurring cut-off retention schedule," as recited in independent claim 1. The Examiner specifically refers to paragraphs [0027], [0029], [0037], [0038], and [0051]-[0053] of Ryan, as allegedly teaching claim 1. Applicants respectfully disagree. Applicants have carefully reviewed the paragraphs cited by the Examiner and find no teaching or suggestion of a "document retention policy being based on a recurring cut-off retention schedule," as recited in independent claim 1, in these paragraphs.

Because Ryan does not teach each and every feature of claim 1, it cannot anticipate that claim. Dependent claims 2-9 are also not anticipated by Ryan for the same reasons as independent claim 1 from which they depend and further in view of their own respective features. Accordingly, Applicants respectfully request that the rejection of claims 1-9 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Claims 10-12

The Examiner argues that Ryan discloses (emphasis added) "generating a next document retention key to be used to encrypt an electronic document during a next cut-off period," as recited in independent claim 10. The Examiner specifically refers to paragraphs [0027], [0029], [0037], [0038], and [0051]-[0053] of Ryan, as allegedly teaching claim 10. Applicants respectfully disagree. Applicants have carefully reviewed the paragraphs cited by the Examiner and find no teaching or suggestion of "generating a next document retention key to be used to encrypt an electronic document during a next cut-off period," as recited in independent claim 10, in these paragraphs.

Because Ryan does not teach each and every feature of claim 10, it cannot anticipate that claim. Dependent claims 11-12 are also not anticipated by Ryan for the same reasons as independent claim 10, from which they depend, and further in view of their own respective features. Accordingly, Applicants respectfully request that the rejection of claims 10-12 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Claims 13-15

The Examiner argues that Ryan discloses a (emphasis added) "retention access key being usable for said encrypting during a cut-off period of a recurring cut-off retention schedule," as recited in independent claim 13. The Examiner specifically refers to paragraphs [0047]-[0051] and claims 9-16 of Ryan, as allegedly teaching claim 13. Applicants respectfully disagree. Applicants have carefully reviewed the paragraphs and claims cited by the Examiner and find no teaching or suggestion of a "retention access key being usable for said encrypting during a cut-off period of a recurring cut-off retention schedule," as recited in independent claim 13, in these paragraphs or claims.

Because Ryan does not teach each and every feature of claim 13, it cannot anticipate that claim. Dependent claims 14-15 are also not anticipated by Ryan for the same reasons as independent claim 13, from which they depend, and further in view of their own respective features. Accordingly, Applicants respectfully request that the rejection of claims 13-15 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Claims 16-20

Applicants have amended claim 16 to overcome the Examiner's rejection in order to expedite prosecution. Applicant reserves the right to prosecute broader claims in a

continuation application. Based on the amendments above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 16.

Because Ryan does not teach each and every feature of claim 16, it cannot anticipate that claim. Dependent claims 17-20 are also not anticipated by Ryan for the same reasons as independent claim 16 from which they depend and further in view of their own respective features. Accordingly, Applicants respectfully request that the rejection of claims 16-20 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Claims 21-24

The Examiner argues that Ryan discloses (emphasis added) "computer program code for assigning a document retention policy to the electronic document, the document retention policy being based on a recurring cut-off retention schedule," as recited in independent claim 21. The Examiner specifically refers to paragraphs [0027], [0029], [0037], [0038], and [0051]-[0053] of Ryan, as allegedly teaching claim 21. Applicants respectfully disagree. Applicants have carefully reviewed the paragraphs cited by the Examiner and find no teaching or suggestion of " computer program code for assigning a document retention policy to the electronic document, the document retention policy being based on a recurring cut-off retention schedule," as recited in independent claim 21, in these paragraphs.

Because Ryan does not teach each and every feature of claim 21, it cannot anticipate that claim. Dependent claims 22-24 are also not anticipated by Ryan for the same reasons as independent claim 21 from which they depend and further in view of their own respective features. Accordingly, Applicants respectfully request that the rejection of claims 21-24 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Claim 25

The Examiner argues that Ryan discloses (emphasis added) "an access manager operatively connected to said key store, said access manager makes available, for each of the cut-off periods, a different one of the public keys of the at least one cryptographic key pairs," as recited in independent claim 25. The Examiner specifically refers to paragraphs [0027], [0029], [0037], [0038], and [0051]-[0053] of Ryan, as allegedly teaching claim 25. Applicants respectfully disagree. Applicants have carefully reviewed the paragraphs cited by the Examiner and find no teaching or suggestion of "an access manager operatively connected to said key store, said access manager makes available, for each of the cut-off periods, a different one of the public keys of the at least one cryptographic key pairs," as recited in independent claim 25, in these paragraphs.

Because Ryan does not teach each and every feature of claim 25, it cannot anticipate that claim. Therefore, Applicants respectfully request the rejection of claim 25 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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